

FILED

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

JUN 26 2000

PEGGY B. DEANS, CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF N.C.

IN RE:)	
)	CHAPTER 7
INTERNATIONAL HERITAGE, INC.)	CASE NO. 98-02675-5-ATS
)	
INTERNATIONAL HERITAGE,)	
INCORPORATED,)	CHAPTER 7
)	CASE NO. 98-02674-5-ATS
Debtors.)	

RESPONSE TO
MOTION FOR STAY PENDING APPEAL
AND MOTION FOR TURNOVER

Now comes Holmes P. Harden, Trustee in the above-captioned case, responding to the motions of Stanley Van Etten, Wood and Francis, PLLC, Georgina Mollick and John and Dee Brothers for a stay of this court's order filed June 7, 2000 pending appeal of the order to the district court. Trustee opposes the motion and requests that the court order immediate identification and turnover of the corporate records of the debtors that are not subject to individual claims of privilege.

Movants' appeals, to the extent they challenge Trustee's authority to waive the attorney-client privilege or the court's finding that the Trustee's waiver of the privilege is of benefit to the estates, will not result in reversal, modification or remand, because the dispositive legal authority (Weintraub) was accurately applied by the court and because the court's findings of fact may not be set aside unless clearly erroneous (B.R. 8013).

Trustee requests that the court, rather than staying the order, require each of the movants to identify with specificity for the Trustee each document that he or she alleges to be subject to his or her individual claim of privilege and that all documents not so identified be ordered delivered to the Trustee immediately.

A stay of the June 7 order will not be necessary to protect the rights of the appellants. The estate is under subpoena by the U.S. Attorney's office to produce corporate records. To the extent the appellants fear infringement of individual attorney-client privileges, they may move to quash the subpoena in district court with the expectation that the district court will conduct an in camera review of documents withheld from the Trustee.

WHEREFORE, Trustee requests that the motion for stay be denied and that the court order the immediate turnover of all corporate records not identified for the Trustee as subject to a claim of individual privilege.

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This 22nd day of June, 2000.

MAUPIN TAYLOR & ELLIS, P.A.

BY: 

Holmes P. Harden

N. C. State Bar No. 9835

Post Office Drawer 19764

Raleigh, NC 27619

Telephone: (919) 981-4000

CERTIFICATE OF SERVICE

I, Holmes P. Harden, attorney for Trustee, do hereby certify that the RESPONSE TO MOTION FOR STAY IN THE APPEAL hereto attached was served upon the party listed below by mailing a copy thereof to him at the address indicated below with the proper postage attached and deposited in an official depository under the exclusive care and custody of the United States Post Office in Raleigh, North Carolina, on the 22nd day of June, 2000.



Holmes P. Harden
Attorney for Trustee
N. C. State Bar No. 9835
Post Office Drawer 19764
Raleigh, North Carolina 27619
Telephone: (919) 981-4000

SERVED:

Marjorie K. Lynch
Bankruptcy Administrator
Post Office Box 3039
Raleigh, North Carolina

Scott Wilkinson
Assistant United States Attorney
Suite 800 Federal Building
Raleigh, NC 27601-1461

Terri L. Gardner
Smith Debnam
P. O. Drawer 1389
Raleigh, NC 27602

John "Jack" O'Hale
Attorney at Law
102 S. 3rd St.
Smithfield, NC 27577-0454

Wade Smith
Melissa Hill
Tharrington Smith
209 Fayetteville Street Mall
Raleigh, NC 27601

Steven T. Smith
McMillan Smith & Plyler
P. O. Box 150
Raleigh, NC 27602-0150

Brent E. Wood
Wood & Francis, PLLC
P. O. Box 164
Raleigh, NC 27602

Joseph Cheshire, V
Cheshire, Parker, Schneider, Wells & Bryan
P. O. Box 1029
Raleigh, NC 27602